

**Notice of Allowability**

Application No.

10/726,433

Examiner

Fadi H. Dahbour

Applicant(s)

DUCHON ET AL.

Art Unit

3743

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 03/26/05.
2. ☒ The allowed claim(s) is/are 1-67.
3. ☒ The drawings filed on 26 March 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

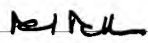
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

  
Fadi H. Dahbour  
Examiner  
Art Unit 3743

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The Examiner acknowledges Applicant's submission of the amendment filed on 03/26/05.
2. The allowed claims are 1-67.
3. The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or fairly suggest the recitations of the specific features of the implant and method, in claims 1, 10, 20, 28, 36, 44, 53 & 61, including especially the following:

The primary reason for the allowance of independent claim 1, is the inclusion of maintaining contact between the implant and the uterine tissue for at least so long that the tissue response causes a changed gynecological condition in the female, claimed in combination with the introduction with a delivery tool, and the detachment from the delivery tool.

The primary reason for the allowance of independent claim 10, is the inclusion of the substance sized and shaped for sufficiently contacting uterine tissue such that the tissue response causes a gynecological change in the female, claimed in combination with the presterilized substance being self-contained, and being disconnectable from a delivery tool.

The primary reason for the allowance of independent claim 20, is the inclusion of maintaining contact between the presterilized implant and the uterine tissue at least until adhesions are formed in the uterus, causing a changed gynecological condition in the female.

The primary reason for the allowance of independent claim 28, is the inclusion of maintaining contact between the presterilized implant and the uterine tissue at least until walls of the uterus adhere together, causing a changed gynecological condition in the female.

The primary reason for the allowance of independent claim 36, is the inclusion of maintaining contact between the implant and the uterine tissue for at least so long that the tissue response causes a changed gynecological condition in the female, claimed in combination with the presterilized implant being formulated at least in part from polyester.

The primary reason for the allowance of independent claim 44, is the inclusion of the substance sized and shaped for sufficiently contacting uterine tissue such that the tissue response causes a gynecological change in the female, claimed in combination with the presterilized substance being in the form of a mesh material.

The primary reason for the allowance of independent claim 53, is the inclusion of the substance sized and shaped for sufficiently contacting uterine tissue such that the tissue response causes a gynecological change in the female, claimed in combination with the presterilized substance being comprised of polyester material.

The primary reason for the allowance of independent claim 61, is the inclusion of the substance sized and shaped for sufficiently contacting uterine tissue such that the tissue response causes a gynecological change in the female, claimed in combination with the presterilized substance having a frame, at least a portion of which is covered by a mesh material.

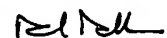
4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Information Disclosure Statement***

The information disclosure statement filed 03/26/05 fails to comply with 37 CFR 1.98(a)(1), which requires that each page the information disclosure statement must have the correct application number 10/726,433 (instead of 09/840,951). Furthermore, the last page of the information disclosure statement should have the heading "INFORMATION DISCLOSURE STATEMENT" (instead of Notice of References Cited). The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 571-272-4792. The examiner can normally be reached on M-F, 9am-5:30pm est. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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